REMARKS

Claims 1-9 and 11-25 have been examined on their merits, and are all the claims pending in the application.

1. Claims 1-3, 8, 13 and 14 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Ogawa (U.S. Patent No. 6,597,339). Applicant traverses the § 102(e) rejection of claims 1-3, 8, 13 and 14 for at least the reasons discussed below.

To support a conclusion that a claimed invention lacks novelty under 35 U.S.C. § 102, a single source must teach all of the elements of a claim. *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1379 (Fed. Cir. 1986). A claim is anticipated only if each and every element as set forth in the claim is found either expressly or inherently in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). A single source must disclose all of the claimed elements arranged as in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). Rejections under 35 U.S.C. § 102 are proper only when the claimed subject matter is identically disclosed or described in the prior art. Thus, the cited reference must clearly and unequivocally disclose every element and limitation of the claimed invention.

Ogawa fails to teach or suggest at least setting the brightness of a back light of a liquid crystal display panel to a particular brightness setting when the display panel is presenting a dynamic image such that a ratio of an area of said display panel to an area of the dynamic image

is smaller than a first threshold value, as recited in claim 1. Ogawa discloses, *inter alia*, that the shutter switch (32) is a switch operated to instruct a shift to a mode for activating a camera, or to acquire a still image in the camera operation mode. *See, e.g.*, col. 4, lines 49-52 of Ogawa. In Figure 3 of Ogawa, a plurality of adjustable luminance levels are disclosed. However, as shown in Figures 5A to 5C, all the screen types are static images. As illustrated in Figure 6 of Ogawa, the luminance levels are varied in accordance with a battery state and the time lapse from the latest input of data. Ogawa fails to teach or suggest the changing of luminance levels based on dynamic images and static images, as recited in claim 1.

Based on the foregoing reasons, Applicant submits that that claim 1 allowable over Ogawa, and further submits that claim 2 is allowable as well, at least by virtue of its dependency from claim 1. Applicant respectfully requests that the Patent Office reconsider and withdraw the § 102(e) rejection of claims 1 and 2.

With respect to independent claim 3, Applicant submits that claim 3 is allowable for at least reasons analogous to those discussed above with respect to claim 1, in that Ogawa fails to teach or suggest at least the varying of the luminance levels according to a dynamic images into which is inserted a reset image and a static image, as recited in claim 3. Therefore, Applicant submits that claim 3 is allowable over Ogawa, and further submits that claims 8, 13 and 14 are allowable as well, at least by virtue of their dependency from claim 3. Applicant respectfully requests that the Patent Office reconsider and withdraw the § 102(e) rejection of claims 3, 8, 13 and 14.

2. Claims 4-7 and 9 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ogawa in view of Furuhashi *et al.* (U.S. Patent No. 5,818,409). Applicants traverse the rejection of claims 4, 7 and 9 for at least the reasons discussed below.

The initial burden of establishing that a claimed invention is *prima facie* obvious rests on the USPTO. *In re Piasecki*, 745 F.2d 1468, 1472 (Fed. Cir. 1984). To make its *prima facie* case of obviousness, the USPTO must satisfy three requirements:

a) The prior art relied upon, coupled with the knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated to artisan to modify a reference or to combine references. *In re Fine*, 837 F.2d 1071, 1074 (Fed. Cir. 1988).

b) The proposed modification of the prior art must have had a reasonable expectation of success, as determined from the vantage point of the artisan at the time the invention was made. *Amgen, Inc. v. Chugai Pharm. Co.*, 927 F.2d 1200, 1209 (Fed. Cir. 1991).

c) The prior art reference or combination of references must teach or suggest all the limitations of the claims. *In re Vaeck*, 20 U.S.P.Q.2d 1438, 1442 (Fed. Cir. 1991); *In re Wilson*, 424 F.2d 1382, 1385 (CCPA 1970).

The motivation, suggestion or teaching may come explicitly from statements in the prior art, the knowledge of one of ordinary skill in the art, or, the nature of a problem to be solved. *In re Dembiczak*, 175 F.3d 994, 999 (Fed. Cir. 1999). Alternatively, the motivation may be implicit from the prior art as a whole, rather than expressly stated. *Id.* Regardless of whether the USPTO relies on an express or an implicit showing of motivation, the USPTO is obligated to provide

particular findings related to its conclusion, and those findings must be clear and particular. *Id.* A broad conclusionary statement, standing alone without support, is not "evidence." *Id.; see also, In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001).

In addition, a rejection cannot be predicated on the mere identification of individual components of claimed limitations. *In re Kotzab*, 217 F.3d 1365, 1371 (Fed. Cir. 2000). Rather, particular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed. *Id.*

The Patent Office acknowledges that Ogawa fails to disclose a display panel comprised of a plurality of cells and scanning lines. The Patent Office alleges that Furuhashi *et al.* provides the necessary disclosure to overcome the acknowledged deficiencies of Ogawa. Applicant notes that Furuhashi *et al.* were not cited as providing any disclosure with respect to setting the brightness of a back light of a liquid crystal display panel to a particular brightness setting when the display panel is presenting a dynamic image.

The combination of Ogawa and Furuhashi *et al.* does not teach or suggest at least the varying of the luminance levels according to a dynamic images into which is inserted a reset image and a static image, as recited in claim 3 and included in claims 4-7 and 9 via dependency. At best, the combination of Ogawa and Furuhashi *et al.* discloses a camera having a display panel comprised of a plurality of cells and scanning lines that is backlit to a particular brightness for the display of static images. There is no teaching or suggestion in the combination of Ogawa and Furuhashi *et al.* that the luminance level is controlled through the use of static, dynamic and

reset images, especially with respect to the display of a reset image on a portion of the display. Thus, Applicant submits that the Patent Office cannot fulfill the "all limitations" prong of a *prima facie* case of obviousness, as required by *In re Vaeck.*

Applicant submits that one of ordinary skill in the art would not be motivated to combine the two references. Although the Patent Office provides a motivation analysis with respect to the composition of the liquid crystal display panel, both Ogawa and Furuhashi *et al.* lack any teaching about the desirability of at least the varying of the luminance levels according to a dynamic images into which is inserted a reset image and a static image. Thus, Applicant submits that the Patent Office cannot fulfill the motivation prong of a *prima facie* case of obviousness, as required by *In re Dembiczak* and *In re Zurko.*

Based on the foregoing reasons, Applicant submits that claims 4-7 and 9 are allowable over the combination of Ogawa and Furuhashi *et al.* Applicant respectfully requests that the Patent Office reconsider and withdraw the § 103(a) rejection of claims 4-7 and 9.

3. Claims 11, 12 and 15-20 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ogawa in view of Furuhashi *et al.* and in further view of Hirano (U.S. Patent No. 5,894,304). Applicant traverses the rejection of claims 11, 12 and 15-20 for at least the reasons discussed below.

The Patent Office acknowledges that the combination of Ogawa and Furuhashi *et al.* fails to disclose a memory storing a first threshold value, as well as a comparator and detector detecting a ratio of the display panel. The Patent Office alleges that Hirano provides the

necessary disclosure to overcome the acknowledged deficiencies of the combination of Ogawa and Furuhashi *et al.* Applicant notes that Hirano was not cited as providing any disclosure with respect to setting the brightness of a back light of a liquid crystal display panel to a particular brightness setting when the display panel is presenting a dynamic image.

The combination of Ogawa, Furuhashi *et al.* and Hirano does not teach or suggest at least the varying of the luminance levels according to a dynamic images into which is inserted a reset image and a static image, as recited in claim 3 and included in claims 11, 12 and 15-20 via dependency. At best, the combination of Ogawa, Furuhashi *et al.* and Hirano discloses a camera having a display panel comprised of a plurality of cells and scanning lines that is backlit to a particular brightness for the display of static images. There is no teaching or suggestion in the combination of Ogawa, Furuhashi *et al.* and Hirano that the luminance level is controlled through the use of static, dynamic and reset images, especially with respect to the display of a reset image on a portion of the display. Moreover, Hirano lacks any disclosure with respect to an image discriminating unit that detects if image data is dynamic image data, and the division of image data from first and second frames into detecting blocks on a liquid crystal display panel. Thus, Applicant submits that the Patent Office cannot fulfill the "all limitations" prong of a *prima facie* case of obviousness, as required by *In re Vaeck.*

Although the Patent Office provides a motivation analysis with respect to the composition of the liquid crystal display panel, Ogawa, Furuhashi *et al.* and Hirano lack any teaching about the desirability of at least the varying of the luminance levels according to a dynamic images into which is inserted a reset image and a static image. Thus, Applicant submits

that the Patent Office cannot fulfill the motivation prong of a *prima facie* case of obviousness, as required by *In re Dembiczak* and *In re Zurko*.

Based on the foregoing reasons, Applicant submits that claims 11, 12 and 15-20 are allowable over the combination of Ogawa, Furuhashi *et al.* and Hirano. Applicant respectfully requests that the Patent Office reconsider and withdraw the § 103(a) rejection of claims 11, 12 and 15-20.

4. Claims 21-25 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Stewart *et al.* (U.S. Patent No. 5,337,068) in view of Ogawa. Applicant respectfully traverses the § 103(a) rejection of claims 21-25 for at least the reasons discussed below.

The Patent Office acknowledges that Stewart *et al.* fail to teach or suggest a backlight unit provided to illuminate a liquid crystal display panel, and a control/drive unit to enable the display of a dynamic image and a static image. The Patent Office alleges that Ogawa provides the necessary disclosure to overcome the acknowledged deficiencies of Stewart *et al.*

The combination of Stewart *et al.* and Ogawa fails to teach or suggest activating the scanning lines of a liquid crystal display at least two times during one frame period and supplying unrelated image data (*e.g.*, a reset image) to the signal lines of a liquid crystal display during one of those two times. The Patent Office argues that the liquid crystal display of the combination of Stewart *et al.* and Ogawa would inherently be activated two times during one frame period and each of said signal lines is supplied with image data during one of the two times and with a signal unrelated to the image data during the other of the two times. Applicants

remind the Patent Office that the fact that a certain element *may* be present in the prior art is *not* sufficient to establish the inherency of that element. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 U.S.P.Q.2d 1955, 1957 (Fed. Cir. 1993) *citing In re Oelrich*, 666 F.2d 578, 581, 212 U.S.P.Q. 323, 326 (CCPA 1981). "To establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient." *In re Robertson*, 169 F.3d 743, 745, 49 U.S.P.Q.2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted). "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic *necessarily* flows from the teachings of the applied prior art." *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original). The Patent Office has made no showing, other than a bald assertion, that the combination of Stewart *et al.* and Ogawa inherently teach or suggest the dynamic image display with image data and a signal unrelated to the image data, as recited in claim 1. Thus, Applicant submits that the Patent Office cannot fulfill the "all limitations" prong of a *prima facie* case of obviousness, as required by *In re Vaeck*.

Applicant submits that one of skill in the art would not be motivated to combine Stewart *et al.* and Ogawa, since both references lack any teaching about the desirability of at least the dynamic image display with image data and a signal unrelated to the image data. Thus,

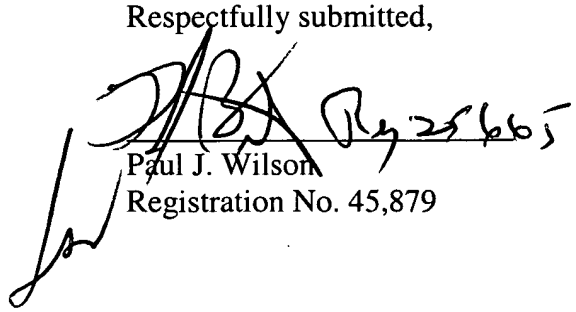
Applicant submits that the Patent Office cannot fulfill the motivation prong of a *prima facie* case of obviousness, as required by *In re Dembiczak* and *In re Zurko*.

Based on the foregoing reasons, Applicant submits that claim 21is allowable over the combination of Stewart *et al.* and Ogawa, and further submits that claims 22-25 are allowable as well, at least by virtue of their dependency from claim 21. Applicant respectfully requests that the Patent Office reconsider and withdraw the § 103(a) rejection of claims 21-25.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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23373
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Date: July 18, 2005